

GRANTED ISSUES

NOTE: THE WORDING OF THE ISSUES IS TAKEN VERBATIM FROM THE PARTIES' PETITIONS FOR DISCRETIONARY REVIEW.

ISSUES GRANTED APRIL 22, 2015

<u>PDR NO.</u>	<u>NAME</u>	<u>COUNTY</u>	<u>OFFENSE</u>
14-1496	JOHNSON, JOE DALE	WICHITA	AGGRAVATED SEXUAL ASSAULT; INDECENCY W/CHILD

1. The Court of Appeals sitting en banc erred in overturning its majority opinion holding that Confrontation and Due Process were offended when the trial court barred cross examination of the State's complaining witness of the eve of trial given: 1) the State's only evidence was this witness' outcry and Appellant's sole defense at trial depended entirely upon the barred cross examination and 2) the State created a false impression of the complaining witness which Appellant was entitled to correct through cross examination.
2. The justices of the Second Court of Appeals disagree as to the application of Confrontation and cross examination of a complaining witness who had molested his younger sister for a number of years before and after the outcry against Appellant.

14-1634	MOORE, AARON JACOB	FORT BEND	AGGRAVATED SEXUAL ASSAULT
----------------	---------------------------	------------------	--------------------------------------

2. Does the court of appeals's construction of "the state" in Section 54.02(j)(4)(A), Family Code require dismissal of a case with prejudice without consideration of the factors for oppressive delay in violation of the separation of powers doctrine?

15-0061	WOOD, CARLTON	BEXAR	EVADING ARREST W/MOTOR VEHICLE
----------------	----------------------	--------------	---

1. The Court of Appeals erred by refusing to apply a presumption that the defendant pled true to the enhancement.
2. Where the trial court finds an enhancement true and the defendant does not object, the presumption should be applied.
3. The evidence supported the court's finding of true, contrary to the Court of Appeals' holding.

15-0072	LEMING, JAMES EDWARD	GREGG	DRIVING WHILE INTOXICATED
----------------	-----------------------------	--------------	--------------------------------------

1. Must a movement into another lane of traffic be unsafe before it can be deemed a violation of Tex. Transp. Code §545.060(a)?
2. Should a tip be deemed reliable when a person calls police to report erratic driving, provides his first name, remains on the telephone with the dispatcher, and follows the suspect's car until an officer arrives and the officer is able to independently corroborate information the caller provided?
3. Did the court of appeals err by reversing the trial judge's ruling on a motion to suppress that Appellant committed a traffic violation when the same facts objectively demonstrated reasonable suspicion?

15-0077	COLE, STEVEN	GREGG	INTOXICATION MANSLAUGHTER
----------------	---------------------	--------------	--------------------------------------

1. Did the Court of Appeals conduct an incorrect exigent circumstances analysis when it required proof of a "now or never" level of urgency?
2. Were exigent circumstances present to draw Appellant's blood without a warrant when the accident created a substantial period of delay before blood could be drawn, the officer knew that it typically took one to one and a half hours to obtain a warrant, and he suspected the defendant was under the influence of illegal drugs as opposed to alcohol, which has a predictable rate of elimination?
3. Does a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violate the Fourth Amendment?

4. If a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violates the Fourth Amendment, must that evidence be suppressed when, at the time of the search, the statute was presumptively valid and that it dispensed with the warrant requirement?

ALPHABETICAL LISTING WITHOUT ISSUES

<u>PDR NO.</u>	<u>NAME</u>	<u>DATE GRANTED</u>
14-0340	ABSALON, RYLAND SHANE	06/11/14
14-1076	BELTRAN, RICARDO	01/28/15
14-0162	BLASDELL, BRANDON SCOTT	10/15/14
14-1087	BRODNEX, IKE ANTYON	11/05/14
14-1341	CARY, STACY STINE	03/25/15
14-0545	CASTILLO, THOMAS EDWARD	09/17/14
15-0077	COLE, STEVEN	04/22/15
14-1501	CORNWELL, ROBERT WILLIAM	02/11/15
14-0501	CORTEZ, DAMIEN HERNANDEZ	09/17/14
14-0082	CRUZ, ADELFO RAMIREZ	05/14/14
14-1514	DABNEY, RONNIE LEON	03/04/15
14-1406	DELAROSA, JOSE RAMIRO	01/28/15
14-0572/73	DONALDSON, PATRICIA	02/04/15
14-0474	DONOVAN, LAWRENCE	09/17/14
14-0857	DOUDS, KENNETH LEE	09/17/14
14-1039	ELIZONDO, JOSE GUADALUPE RODRIGUEZ	01/28/15
14-0893	FAUST, JOEY	10/08/14
14-1473	FINLEY, WILLIAM BRYAN, III	03/18/15
14-1396	FORD, JON THOMAS	02/04/15
14-0738	GREEN, JOSEPH LESTER	09/17/14
14-0125	GUTHRIE-NAIL, VERA ELIZABETH	04/30/14
14-0622	HOLIDY, MARCUS BRUCE	08/20/14
14-0433	HUSE, HAYDEN	09/17/14
14-1189	JAGANATHAN, FRANCESKA V.	11/19/14
14-0823	JACKSON, JOHN BERRY	10/08/14
14-1496	JOHNSON, JOE DALE	04/22/15
14-0228	JOHNSON, TERENCE	04/09/14
14-1340	KENT, KEVIN LAVELLE	02/04/15
14-0605	LE, CUONG PHU	09/17/14
15-0072	LEMING, JAMES EDWARD	04/22/15
14-1595	LIVERMAN, ROGER	02/04/15
14-1596	LIVERMAN, AARON	02/04/15
14-0542	MALDONADO, ANTHONY L.	06/11/14
14-0894	MARROQUIN, RAMON	10/08/14
14-0509/10	MARSHALL, PATRICK	09/24/14
14-1263	McGRUDER, MICHAEL ANTHONY	01/28/15
14-1133	McKAY, CODY WAYNE	11/05/14
14-1634	MOORE, AARON JACOB	04/22/15
14-0851/52	NIXON, REGINALD	09/24/14
14-0840	NOWLIN, KEIONA DASHELLE	11/05/14
14-0967	OWENS, CHARLES RAY, JR.	09/24/14
14-1043	PAREDES, JOVANY	09/24/14
15-100/01	PERAZA, OSMIN	03/25/15
14-1274	PEYRONEL, BOBBY JOE	12/17/14
14-0789	PHILLIPS, CHRISTOPHER ALLEN	09/17/14
14-1472	RABB, RICHARD LEE	02/04/15
14-0601	REEDER, CLAYTON DEAN	08/20/14
15-0013/15	RENDON, MICHAEL ERIC	02/04/15
14-1277	REYES, JUAN	11/19/14
14-0421	ROBINSON, LEO DEMORY	07/23/14
14-0278	RODRIGUEZ, ISRAEL YTUARTE	06/18/14
14-0419	SALINAS, ORLANDO	09/17/14
14-1505	SCHLITTLER, DAVID	02/25/15
13-1790-93	SMITH, FREDRICHEE DOUGLAS	06/25/14

14-1615	SMITH, WILLIAM aka BILL	02/11/15
14-0543	SPEIGHTS, BILLY WAYNE	06/11/14
14-1071	STAIRHIME, RYAN MATTHEW	11/19/14
14-0729	TAPIA, GILBERT, JR.	09/17/14
14-1316	THURSTON, GEORGE ANTHONY	01/28/15
14-0679	TORRES, MANUEL	09/17/14
15-0078	VASQUEZ, JOSE	04/15/15
14-0635	WEEMS, DANIEL JAMES	08/20/14
15-0061	WOOD, CARLTON	04/22/15

NUMERICAL LISTING WITH ISSUES GRANTED

13-1790
13-1791
13-1792
13-1793

SMITH, FREDRICHEE DOUGLAS

06/25/14

APPELLANT'S & STATE'S

HARRIS

**SEXUAL ASSAULT OF A
CHILD;
POSSESSION OF CHILD
PORNOGRAPHY; ONLINE
SOLICITATION OF A MINOR**

APPELLANT'S GROUND FOR REVIEW:

Mr. Smith's conviction under Texas Penal Code Section 33.031(b) is void because the Court of Criminal Appeals held this statutory subsection facially unconstitutional.

STATE'S GROUNDS FOR REVIEW:

1. The court of appeals erred in holding that the sufficiency of the evidence justifying the assessment of court costs should be based on the clerk's "bill of costs" rather than on the statutory predicate for the assessment of such costs.
2. The court of appeals erred in failing to reform the judgment to adjudge the correct assessment of court costs as mandated by the relevant statutes.

14-0082

CRUZ, ADELFO RAMIREZ

05/14/14

APPELLANT'S

TRAVIS

MURDER

Does the exception to Miranda that allows "routine inquiries that are normally attendant to arrest and custody" extend to questions asked by law enforcement of a person already in custody for hours when the purpose of the questions is to elicit an incriminating response prior to the person being informed of rights pursuant to the Fifth Amendment, Miranda v. Arizona, and Texas Code of Criminal Procedure Article 38.22?

14-0125

GUTHRIE-NAIL, VERA ELIZABETH

04/30/14

APPELLANT'S

COLLIN

**CONSPIRACY TO COMMIT
CAPITAL MURDER**

1. The Court of Appeals erred in holding that the trial court found that Appellant used a deadly weapon during the offense and therefore no error has been shown in the trial court's rendition of a judgment nunc pro tunc.
2. The Court of Appeals erred in holding that the trial court did not err by signing the order nunc pro tunc stating that the trial court's omission of an affirmative finding on the original judgement was not a judicial decision but a clerical error.

ON COURT'S OWN MOTION:

The Court of Appeals erred in holding that the trial court did not deny Appellant due process of law and the right to confrontation when, after signing the original judgment, the trial court almost three months later entered an erroneous judgment nunc pro tunc adding a deadly weapon finding without notice to Appellant.

14-0162

BLASDELL, BRANDON SCOTT

10/15/14

APPELLANT'S

MONTGOMERY

AGGRAVATED ROBBERY

1. Eyewitness misidentification is a hallmark of a wrongful conviction.
2. Whether the court of appeals has decided an important question of federal law in a way that conflicts with the applicable decisions of the Court of Criminal Appeals or the Supreme Court of the United States.

14-0228

JOHNSON, TERENCE

04/09/14

STATE'S

HOUSTON

DESTRUCTION OF FLAG

Does Penal Code section 42.11, entitled "Destruction of Flag," ban a substantial amount of protected speech, not only in an absolute sense, but also relative to the statute's plainly legitimate sweep?

14-0278

RODRIGUEZ, ISRAEL YTUARTE

06/18/14

STATE'S

BEXAR

SEXUAL ASSAULT OF CHILD

1. Did the court of appeals err by considering the original trial judge's voluntary recusal?
2. Did the court of appeals err by concluding that there was a reasonable probability that the original trial judge would have accepted the original ten-year plea-bargain?
3. Did the court of appeals err by concluding that the second trial judge was required to order the State to reoffer the ten-year plea-bargain a second time?
4. Was the court of appeals correct to reverse the trial court's judgment as to conviction and sentence? Or should the court of appeals have only reversed the trial court's judgment as to sentence?

14-0340 ABSALON, RYLAND SHANE 06/11/14
APPELLANT'S TARRANT CAPITAL MURDER

The Court of Appeals erred when it concluded that appellant's participation in a drug treatment program was involuntary such that statements made in the context of that program were admissible into evidence under TEX. CODE CRIM. PROC. ANN. ART. 38.101 and TEX. R. EVID. 509.

14-0419 SALINAS, ORLANDO 09/17/14
APPELLANT'S HARRIS INJURY TO ELDERLY PERSON

The Fourteenth Court of Appeals decision regarding the constitutionality of the consolidated court cost on severability grounds (neither raised by the State nor briefed by either party) failed to properly address the merits of the argument.

ON COURT'S OWN MOTION:

Whether the Fourteenth Court of Appeals decision that the "appellant failed to satisfy his burden to show that the statute is invalid in all possible applications because he has not established what the funds designated in [Texas Local Government Code] section 133.102(e) actually do" is erroneous in light of clear precedent from this court in reviewing facial challenges to the constitutionality of a statute.

14-0421 ROBINSON, LEO DEMORY 07/23/14
APPELLANT'S DALLAS FAILURE TO COMPLY
W/SEX OFFENDER
REGISTRATION

1. Is the failure to comply with the sex offender requirements to notify police of an intended move a strict liability offense?
2. In conducting a review of the sufficiency of the evidence, can an intermediate appellate court disregard a trial court's erroneous interpretation of the law?
3. Did the Court of Appeals apply the proper standard of review for conducting a sufficiency analysis under the failure to notify provisions of Tex. Penal Code §§62.055 & 62.102?
4. Is conducting a review of the sufficiency of the evidence, can an intermediate appellate court disregard a trial court's specific findings of fact?

14-0433 HUSE, HAYDEN 09/17/14
APPELLANT'S LUBBOCK DRIVING WHILE
INTOXICATED

1. After State v. Hardy, does a citizen have standing to challenge the process by which his medical records are obtained?
2. Must the State comply with federal requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to obtain a citizen's medical records, and if it fails to do so, is there any remedy?

14-0474 DONOVAN, LAWRENCE 09/17/14
APPELLANT'S TARRANT INJURY TO A CHILD

1. Did the Court of Appeals erroneously affirm the trial court's order revoking Petitioner's probation when the trial court ignored a final expunction order entered by the former judge of the court? Can an expunction order that is final be ignored by a court, C.S.C.D. officer, or treatment provider?
2. Did the Court of Appeals erroneously affirm the trial court's order revoking Petitioner's probation when the probation was revoked because Petitioner failed to attend and meet the requisite number of goals of a sex offender treatment program for an offense that had been expunged and for which he had been found "not guilty?"

14-0501	CORTEZ, DAMIEN HERNANDEZ	09/17/14
APPELLANT'S	POTTER	FRAUDULENT POSSESSION OF IDENTIFYING INFORMATION

Is an item of identifying information, the unit of prosecution in Section 32.51 of the Texas Penal Code, a grouping of identifying information such as is represented in a check, bank statement or credit card, or is it each piece of identifying information that meets the statutory definition of that term, resulting in multiple items being present on a single check, bank statement or credit card? The Court of Criminal Appeals has not addressed this question of law and it should be addressed in order that there may be some uniformity to prosecutions throughout the State.

14-0509	MARSHALL, PATRICK	09/24/14
14-0510		
STATE'S & APPELLANT'S	HAYS	ASSAULT; AGGRAVATED ASSAULT

STATE'S GROUND FOR REVIEW:

Impeding the normal breath is bodily injury. Here, the charge's abstract and application paragraphs require the jury to find Marshall impeded the normal breathing of his wife. The appellate court reversed and remanded, ruling that the lack of a bodily injury definition in the application paragraph relieved the State of its burden to prove bodily injury. Did proving impeding breath prove bodily injury?

APPELLANT'S GROUND FOR REVIEW:

The Court of Appeals erred in finding the evidence was sufficient to support a conviction for Assault by Strangulation - Family Violence. The evidence failed to show that Petitioner impeded the complainant's normal breathing, or that he caused her bodily injury by doing so.

14-0542	MALDONADO, ANTHONY L.	06/11/14
STATE'S	BEXAR	AGGRAVATED SEXUAL ASSAULT; INDECENCY

W/CHILD

1. Is the subsumption theory of *Patterson v. State* still valid in light of this Court's more recent case law?
2. If *Patterson* is still valid, is a single count alleging sexual contact subsumed by a count alleging penetration when there is evidence of multiple incidents of penetration which could have formed the basis for each count?

14-0543	SPEIGHTS, BILLY WAYNE	06/11/14
STATE'S	BOWIE	AGGRAVATED SEXUAL ASSAULT; INDECENCY

W/CHILD

1. Is the subsumption theory of *Patterson v. State* still valid in light of this Court's more recent case law?
2. If *Patterson* is still valid, is indecency by exposure incident to and subsumed by indecency by contact when the defendant masturbates in front of the victim and causes the victim to touch the defendant's penis?

14-0545	CASTILLO, THOMAS EDWARD	09/17/14
STATE'S	BEXAR	BURGLARY; AGGRAVATED ASSAULT

1. The Court of Appeals erred by reviving *Grady v. Corbin* (overruled by the Supreme Court), and applying a cognate evidence analysis (rejected by this court) in reviewing a double jeopardy claim.
2. The Court of Appeals erred by finding that an aggravated assault on a victim not named in a capital murder indictment was a lesser included offense of the capital murder.
3. The Court of Appeals misapplied the law by finding that an offense was subsumed within the greater if the State "could have" used that offense to prove the greater, rather than that it was required to do so.

14-0572	DONALDSON, PATRICIA	02/04/15
14-0573		
APPELLANT'S	DALLAS	MAKING A FALSE STATEMENT TO OBTAIN CREDIT;
TAMPERING		W/GOVERNMENTAL RECORD

The Court's second opinion is wrong because it misinterprets the applicable law and wholly ignores relevant portions of the record. The Court's first opinion properly applied the law.

14-0601
STATE'S

REEDER, CLAYTON DEAN
RUSK

08/20/14
DRIVING WHILE
INTOXICATED

Does TEX. TRANSP. CODE § 724.012(b), the mandatory blood draw provision, establish advance voluntary and irrevocable consent making all warrantless draws thereunder permissible?

14-0605
STATE'S

LE, CUONG PHU
HARRIS

09/17/14
POSSESSION OF MARIJUANA

In a case involving the continuous cultivation of a grow house, the Fourteenth Court of Appeals applied an inappropriate de novo review, excluding a fact it deemed “stale” because of the “transient nature of drugs,” excluding evidence from the affidavit that Appellee challenged with evidence outside the four corners of the affidavit, ignoring relevant evidence, and incorrectly summarizing facts within the affidavit.

14-0622
STATE'S

HOLIDY, MARCUS BRUCE
RUSK

08/20/14
DRIVING WHILE
INTOXICATED

Does TEX. TRANSP. CODE § 724.012(b), the mandatory blood draw provision, establish advance voluntary and irrevocable consent making all warrantless draws thereunder permissible?

14-0635
STATE'S

WEEMS, DANIEL JAMES
BEXAR

08/20/14
DRIVING WHILE
INTOXICATED

1. Are the “established exceptions” to the “warrant requirement” the exclusive way of determining whether a particular warrantless search or seizure is reasonable under the Fourth Amendment?
2. Is a warrantless, nonconsensual search administered in compliance with Transportation Code section 724.012(b) reasonable under the Fourth Amendment?
3. Did the court of appeals err in its interpretation of section 724.012(b) by suggesting that the statute does not dispense with a search warrant?
4. Did the court of appeals err in its conclusion that there were no exigent circumstances?

14-0679
STATE'S

TORRES, MANUEL
EL PASO

09/17/14
POSSESSION OF
CONTROLLED
SUBSTANCE

1. Where Torres failed to allege or attest in his habeas pleadings, or otherwise provide any competent evidence demonstrating, that had he been properly advised, he would have availed himself of a trial, the Eighth Court erroneously held that Torres satisfied the prejudice prong of Strickland.
2. The Eighth Court erroneously failed to conduct a proper Strickland prejudice inquiry where it held that prejudice stemming from a Padilla violation was “presumed,” failed to afford proper deference to the trial court's express findings on disputed fact issues and credibility assessments, and failed to determine whether a decision to reject the plea bargain would have been rational under the circumstances.
3. Where the totality of the circumstances demonstrates that counsel sufficiency advised Torres that deportation was an inevitable consequence after his guilty plea, the Eighth Court erroneously held that counsel rendered deficient performance simply because he did not specifically stated that Torres's plea “will” result in his removal.

14-0729
STATE'S

TAPIA, GILBERT, JR.
BEE

09/17/14
AGGRAVATED ASSAULT

1. Must a revocation be based on evidence of a violation that occurred or was discovered subsequent to the preceding continuation or modification?
2. If the State is required to allege all known violations or risk forfeiting them, is that requirement subject to waiver or estoppel?

14-0738

GREEN, JOSEPH LESTER

09/17/14

STATE'S

MEDINA

**AGGRAVATED SEXUAL
ASSAULT**

The Court of Appeals erred in holding that by defining the terms 'penetration' and "female sexual organ" in the instructions to the jury at the conclusion of the evidentiary portion of the guilt phase of the trial, the trial court committed reversible error.

**14-0789 PHILLIPS, CHRISTOPHER ALLEN
APPELLANT'S McLENNAN**

**09/17/14
AGGRAVATED ROBBERY**

Whether the Court of Appeals erred in holding that the provisions of Art. 38.075 Texas Code of Criminal Procedure do not apply in this case, thereby overruling Appellant's first three issues on appeal?

**14-0823 JACKSON, JOHN BERRY
STATE'S MITCHELL**

**10/08/14
POSSESSION OF
CONTROLLED
SUBSTANCE W/INTENT TO
DELIVER**

Is evidence "obtained in violation of the law" when it is seized after a detention for an offense committed in the presence of police, who were lawfully situated, when they were aware of the defendant's presence at that location as a result of an illegal tracking device?

**14-0840 NOWLIN, KEIONA DASHELLE
APPELLANT'S McLENNAN**

**11/05/14
HINDERING APPREHENSION**

Whether the court of appeals was correct in holding that the evidence was legally sufficient to prove that Nowlin knew Degrate was charged with a felony offense.

**14-0851 NIXON, REGINALD
14-0852 TARRANT
APPELLANT'S**

**09/24/14
BURGLARY OF HABITATION;
EVADING ARREST**

Is the general rule of *Muniz v. State*, 573 S.W.2d 792 (Tex. Crim. App. 1978) – permitting trial courts to order juries to reconsider sentencing verdicts that do not comply with applicable statutes – partially superseded by the later and more specific Tex. Code Crim. Pro Art. 37.10(b), under which a sentencing verdict containing both authorized and unauthorized punishment is not to be rejected and sent for reconsideration, but simply reformed to reflect only the authorized portion?

**14-0857 DOUDS, KENNETH LEE
STATE'S BRAZORIA**

**09/17/14
DRIVING WHILE
INTOXICATED**

1. Did the Appellant preserve error when he did not address the necessity for the issuance of a search warrant at the motion to suppress hearing and only made a boilerplate claim of violation of constitutional rights in his written motion?

3. Did the Court of Appeals err in finding insufficient exigent circumstances where the arresting officer was delayed in obtaining the blood draw by his investigation of the accident scene which involved an injury?

4. Does application of implied consent negate the necessity of a warrant or exigent circumstances in order to obtain a blood sample under Section 724.012(b) of the Transportation Code?

**14-0893 FAUST, JOEY
STATE'S TARRANT
(consolidated with 14-0894)**

**10/08/14
INTERFERENCE WITH
PUBLIC DUTIES**

1. Did the Second Court of Appeals err in implicitly holding that citizens can use the First Amendment to the United States Constitution as a shield to disobey lawful orders of law enforcement and forcibly cross a police skirmish line set up at a Gay Pride Parade in Fort Worth, Texas, when those measures by law enforcement are taken to preserve the peace and the safety of the public?

2. Notwithstanding that police action may infringe on a citizen's First Amendment rights, does a citizen have a right to disobey orders of a police officer, forcibly breach a skirmish line imposed, and interfere with the officer's duties?

3. Did the Second Court of Appeals err in failing to conduct a proper "as applied" First Amendment analysis when it concluded that the Fort Worth Police Department's action in constructing a skirmish line at a Gay Pride Parade violated the First Amendment to the United States Constitution?

4. Did the Second Court of Appeals err in concluding that the skirmish line set up by the police department during the Fort Worth Gay Pride Parade was not a reasonable action as to "time, place or manner" under the First Amendment to the United States Constitution?

14-0894 **MARROQUIN, RAMON**
STATE'S **TARRANT**
(consolidated with 14-0893)

10/08/14
INTERFERENCE WITH
PUBLIC DUTIES

1. Did the Second Court of Appeals err in implicitly holding that citizens can use the First Amendment to the United States Constitution as a shield to disobey lawful orders of law enforcement and forcibly cross a police skirmish line set up at a Gay Pride Parade in Fort Worth, Texas, when those measures by law enforcement are taken to preserve the peace and the safety of the public?

2. Notwithstanding that police action may infringe on a citizen's First Amendment rights, does a citizen have a right to disobey orders of a police officer, forcibly breach a skirmish line imposed, and interfere with the officer's duties?

3. Did the Second Court of Appeals err in failing to conduct a proper "as applied" First Amendment analysis when it concluded that the Fort Worth Police Department's action in constructing a skirmish line at a Gay Pride Parade violated the First Amendment to the United States Constitution?

4. Did the Second Court of Appeals err in concluding that the skirmish line set up by the police department during the Fort Worth Gay Pride Parade was not a reasonable action as to "time, place or manner" under the First Amendment to the United States Constitution?

14-0967 **OWENS, CHARLES RAY, JR.**
STATE'S **HARRISON**

09/24/14
FELONY MURDER

Whether the appellate court erred in reversing the conviction in lieu of abating the appeal and ordering a retrospective competency trial.

14-1039 **ELIZONDO, JOSE GUADALUPE RODRIGUEZ**
APPELLANT'S **HIDALGO**

01/28/15
MURDER

2. The court of appeals should have analyzed all the elements of *Smith v. State* before determining that Elizondo provoked the second altercation.

3. The court of appeals affirmed on a jury charge that was grossly incorrect by ignoring and then misapplying this Court's precedent.

14-1043 **PAREDES, JOVANY**
APPELLANT'S **HARRIS**

09/24/14
CAPITAL MURDER

The Court of Appeals erred when, on remand, it affirmed the admission of surrogate expert testimony regarding DNA testing in violation of the Confrontation Clause.

14-1071 **STAIRHIME, RYAN MATTHEW**
APPELLANT'S **HARRIS**

11/19/14
MURDER

The Court of Appeals determined Mr. Stairhime had waived all error during voir dire when, at the end of voir dire, he made no objection to the seated jury. Mr. Stairhime was denied the right to ask a proper question and made a timely and specific objection. Did the Court of Appeals err in holding that by affirmatively stating no objection to the seated jury, that *all* previously made objections were waived?

14-1076 **BELTRAN, RICARDO**
APPELLANT'S **DALLAS**

01/28/15
MURDER

1. By ruling that Reyes' conviction should be reinstated because the supplemental findings of fact and conclusions of law the trial court provided failed to identify or rely on any theory of law to support Reyes' non-*Padilla* claims, the court of appeals has decided an important question of state law which conflicts with an applicable decision of this Court.
2. By ruling that an article 11.072 writ applicant is not entitled to a ruling by the trial court on his potentially dispositive actual innocence and ineffective assistance claims, the court of appeals has decided this case in a way which conflicts with applicable decisions of the United States Supreme Court.
3. By giving binding effect to the trial court's failure to supplement its non-*Padilla* findings of fact and conclusions of law, the court of appeals has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's power of supervision.

**THURSTON, GEORGE ANTHONY
TARRANT**

01/28/15
TAMPERING WITH EVIDENCE

In the context of tampering with evidence, how far does the "impending or about to take place" definition of "pending" extend? Is it limited to investigations flowing directly from the defendant's action? Or does it extend to situations where the defendant is both temporally and proximately removed from the initiation of the investigation?

**KENT, KEVIN LAVELLE
HARRIS**

02/04/15
THEFT

1. The court of appeals should not have reversed the trial court's decision to reject the appellant's proposed application paragraph because the paragraph was not authorized by the indictment and was an incorrect statement of the law.
2. The court of appeals erred in holding that jurors must unanimously agree beyond a reasonable doubt on each underlying transaction used to comprise an aggregate theft charge.
3. The court of appeals erred in finding that the appellant was harmed by any unanimity error in the jury charge because his defense was not predicated on isolating one transaction from another.

CARY, STACY STINE
COLLIN

03/25/15
BRIBERY; ENGAGING IN
ORGANIZED CRIMINAL
ACTIVITY; MONEY

LAUNDERING

1. The State Affirmatively Proved Ms. Cary's Innocence By Proving That The Alleged Bribes Were "Political Contributions."
2. The Evidence Was Insufficient To Show The Requisite Consideration To Support The Bribery Convictions.
3. The Evidence Was Insufficient To Show That Appellant Had The Requisite Intent To Commit Bribery.
4. The Evidence Was Insufficient To Support Ms. Cary's Conviction For Engaging In Organized Criminal Activity And Money Laundering.

FORD, JON THOMAS
BEXAR

02/04/15
MURDER

1. Whether a warrantless search of involuntarily conveyed historical cell tower data is an illegal search, is a novel question of law that has not been, but should be decided by the Court of Criminal Appeals.
2. The Court of Appeal[s'] holding, that cell tower data information conveyed from a phone involuntarily, is public information under the third party record doctrine; is contrary to *Richardson v. State*, 865 S.W.2d 944 (Tex. Crim. App. 1993).

DELAROSA, JOSE RAMIRO
DALLAS

01/28/15
UNAUTHORIZED USE OF
MOTOR VEHICLE

1. Did the panel below err by dismissing the Appellant's appeal for lack of jurisdiction and denying the State's motion to abate when the State's motion to abate had expressly cited this Court's on-point, binding precedent that mandated resort to the abatement process (as the State had requested)?
2. Did the panel below err by dismissing the Appellant's appeal for a lack of jurisdiction without addressing in any substantive manner the issues raised by the State regarding appellate record inaccuracies that pertained directly to whether the immediate appellate court did or did not have jurisdiction?
3. Did the appellate record inaccuracies cited by the State constitute raised matters necessary to the disposition of the appeal, such that the panel below erred by finding a want of jurisdiction without first addressing the issue of the appellate record inaccuracies which the State had expressly cited?
4. Does the Texas Supreme Court's having mandated that intermediate appellate courts construe liberally the rules of appellate procedure regarding the correction of appellate record inaccuracies also mandate the application of such liberal rule constructions for the purposes of determining whether the intermediate appellate court's jurisdiction has been invoked when the appellate record on its face reflects potential clerical error that not only pertains directly to the jurisdictional issue, but also conflicts with the application of the presumption of regularity?

RABB, RICHARD LEE
ROCKWALL

02/04/15
TAMPERING WITH PHYSICAL
EVIDENCE

- | | | |
|-------------|----------------------------|------------------|
| 14-1473 | FINLEY, WILLIAM BRYAN, III | 03/18/15 |
| APPELLANT'S | WILLIAMSON | RESISTING ARREST |

14-1496	JOHNSON, JOE DALE	04/22/15
APPELLANT'S	WICHITA	AGGRAVATED SEXUAL ASSAULT; INDECENCY W/CHILD

- | | | |
|--------------------|---------------------------------|---------------------------------------|
| 14-1501 | CORNWELL, ROBERT WILLIAM | 02/11/15 |
| APPELLANT'S | MONTGOMERY | IMPERSONATING A PUBLIC SERVANT |

14-1505	SCHLITTLER, DAVID	02/25/15
APPELLANT'S	ANDERSON	IMPROPER CONTACT
W/VICTIM		

- | | | |
|----------------|----------------------------|-----------------------------|
| 14-1514 | DABNEY, RONNIE LEON | 03/04/15 |
| STATE'S | WICHITA | MANUFACTURE OF A |
| | | CONTROLLED SUBSTANCE |

- | | | |
|---------|-----------------|--|
| 14-1595 | LIVERMAN, ROGER | 02/04/15 |
| 14-1596 | LIVERMAN, AARON | 02/04/15 |
| STATE'S | DENTON | SECURING EXECUTION OF
A DOCUMENT BY DECEPTION |

1. Was it the Legislature's intent under Texas Penal Code Section 32.46(a)(1) to criminalize the act of causing a court clerk to file and record a fraudulent lien?
2. Does a clerk's actions of filing and recording a lien equate to "signing or executing" under Texas Penal Code Section 32.46(a)(1)?

14-1615
STATE'S

SMITH, WILLIAM aka BILL
NUECES

02/11/15
DRIVING WHILE
INTOXICATED

1. Whether the implied consent and mandatory blood draw provisions of the Texas Transportation Code are a constitutionally valid alternative to the warrant requirement.
2. Whether the defendant preserves his Fourth Amendment objection to blood evidence when he fails to object to testimony concerning the results of testing done on that blood and only later objects to admission of the blood sample itself.

14-1634
STATE'S

MOORE, AARON JACOB
FORT BEND

04/22/15
AGGRAVATED SEXUAL
ASSAULT

2. Does the court of appeals's construction of "the state" in Section 54.02(j)(4)(A), Family Code require dismissal of a case with prejudice without consideration of the factors for oppressive delay in violation of the separation of powers doctrine?

15-0013
15-0015
STATE'S

RENDON, MICHAEL ERIC
VICTORIA

02/04/15
POSSESSION OF MARIJUANA;
MONEY LAUNDERING

The Court of Appeals finding that the area outside of Appellee's apartment constituted the curtilage of that apartment incorrectly decided an important question of State and Federal law that has not been but should be settled by the Court of Criminal Appeals.

15-0061
STATE'S

WOOD, CARLTON
BEXAR

04/22/15
EVADING ARREST W/MOTOR
VEHICLE

1. The Court of Appeals erred by refusing to apply a presumption that the defendant pled true to the enhancement.
2. Where the trial court finds an enhancement true and the defendant does not object, the presumption should be applied.
3. The evidence supported the court's finding of true, contrary to the Court of Appeals' holding.

15-0072
STATE'S

LEMING, JAMES EDWARD
GREGG

04/22/15
DRIVING WHILE
INTOXICATED

1. Must a movement into another lane of traffic be unsafe before it can be deemed a violation of Tex. Transp. Code §545.060(a)?
2. Should a tip be deemed reliable when a person calls police to report erratic driving, provides his first name, remains on the telephone with the dispatcher, and follows the suspect's car until an officer arrives and the officer is able to independently corroborate information the caller provided?
3. Did the court of appeals err by reversing the trial judge's ruling on a motion to suppress that Appellant committed a traffic violation when the same facts objectively demonstrated reasonable suspicion?

15-0077
STATE'S

COLE, STEVEN
GREGG

04/22/15
INTOXICATION MANSLAUGHTER

1. Did the Court of Appeals conduct an incorrect exigent circumstances analysis when it required proof of a "now or never" level of urgency?
2. Were exigent circumstances present to draw Appellant's blood without a warrant when the accident created a substantial period of delay before blood could be drawn, the officer knew that it typically took one to one and a half hours to obtain a warrant, and he suspected the defendant was under the influence of illegal drugs as opposed to alcohol, which has a predictable rate of elimination?
3. Does a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violate the Fourth Amendment?

4. If a warrantless blood draw conducted pursuant to TEX. TRANSP. CODE § 724.012(b) violates the Fourth Amendment, must that evidence be suppressed when, at the time of the search, the statute was presumptively valid and that it dispensed with the warrant requirement?

15-0078
STATE'S

VASQUEZ, JOSE

HARRIS

04/15/15
CAPITAL MURDER

1. The lower court's majority opinion erred in holding that the appellant preserved his two-step interrogation complaint for appellate review.
2. The lower court's majority opinion erred in holding that the appellant was subject to custodial interrogation prior to receiving and waiving his legal rights.
3. The lower court's majority opinion erred in holding that a two-step interrogation technique was deliberately employed by the police.
4. The lower court's majority opinion erred in holding that the appellant was harmed by the admission of his statement when there was overwhelming evidence of the appellant's guilt independent of his statement to the police.

15-100
15-101
STATE'S

PERAZA, OSMIN

HARRIS

03/25/15
AGGRAVATED SEXUAL
ASSAULT

The First Court of Appeals erred by finding the DNA record fee is an unconstitutional tax that violates the separation of powers clause.